

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Hawkeye Care Center of Spirit Lake, LLC
Appellant,

v.

Dickinson County Board of Review,
Appellee.

ORDER

Docket Nos. 13E-30-1195; 14-30-0040
Parcel No. 07-05-326-075

On July 17, 2014, the above-captioned appeals came on for consideration before the Iowa Property Assessment Appeal Board (PAAB). Upon agreement by both parties, PAAB consolidated the appeals for consideration. The appeals were conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Jason Miller of Property Valuation Services, Overland Park, Kansas represented the Appellant Hawkeye Care Center of Spirit Lake, LLC and requested the appeal proceed without a hearing. Assistant County Attorney Lonnie Saunders represented the Board of Review. The Appeal Board now, having examined the entire record, and being fully advised, finds:

Findings of Fact

Hawkeye Care Center of Spirit Lake, LLC protested the 2013 equalization order and the 2014 assessment of property located at 1912 Zenith Avenue, Spirit Lake, Iowa. According to the record, the subject is a one-story, brick nursing home built in 1964, with additions built in 1989 and 1993. It has 48,020 square feet of gross building area and 120 beds. It has typical appurtenances such as a paved parking area, yard lights, fencing, and signage. There is also an 1800-square-foot garage and a gazebo. The site is 5.76 acres.

The January 1, 2013, assessment of the subject property was \$2,598,400. Subsequently, the Iowa Department of Revenue issued a 15% equalization order for commercial property in the County.

After application of the equalization order, the 2013 assessment of the subject property was \$2,988,200, representing \$446,900 in land value and \$2,541,300 in improvement value. The January 1, 2014, assessment remained unchanged from 2013.

Hawkeye Care protested the 2013 equalization order to the Dickinson County Board of Review under Iowa Code section 441.49. It asserted the correct fair market value was \$2,000,000. The Board of Review denied the protest and Hawkeye Care appealed to this Board.

Hawkeye Care also protested the January 1, 2014 assessment of the subject property. It protested on the grounds that the assessment is not equitable as compared with assessments of other like property, the property is assessed for more than authorized by law, and there has been a change in the value since the last reassessment under Iowa Code sections 441.37(1)(a)(1)(a) and (b), 441.37(1)(a)(2) and 441.35(2). The Board of Review denied this protest and Hawkeye Care appealed to this Board. Because there was no change in value from the previous assessment, the only ground this Board can consider on appeal for the 2014 assessment is that there has been a change in value since the last reassessment. Iowa Code §§ 441.35(2), 441.37(1)(a)(2); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977).

Hawkeye Care asserts the subject property has a value of \$2,145,000, or \$44.67 per-square-foot. (Exhibit 1, page 2). Hawkeye Care developed a cost approach to value and provided comparable sales. It developed the cost approach using Marshall and Swift, a national cost publication. Hawkeye Care explains it used the Marshall and Swift depreciation tables based on convalescent hospital occupancy with wood frame. (Exhibit 1). It chose to rely on the equalized land value of \$446,900, determined by the assessor, and included \$75,000 in undepreciated site improvements. It did not explain how it determined these estimates are market based; or why it chose to rely on the assessor's determination of land value, but not its determination of improvement value. It depreciated the improvements by 72% and determined a rounded conclusion of \$2,100,000. (Exhibit 2).

We note the property's building improvements have a condition rating of Below Normal, however, this was assigned by the Board of Review and we do not know what condition rating the assessor previously gave the property. The property record card shows the total undepreciated value of the subject improvements (excluding land value) as \$4,616,753. Conversely, Hawkeye Care calculates the undepreciated value of the subject improvements at \$5,620,741. The property record card indicates 50% depreciation for the majority of the building improvements with some more recent additions having 25% or less depreciation applied. In contrast, Hawkeye Care applied 72% depreciation to all the improvements, but does not explain how it determined this amount was appropriate.

Hawkeye Care also submitted four properties from Iowa that it considered comparable. (Exhibit 3). The following chart summarizes the sales submitted compared to the subject.

Comparable	Address	Sale Price	Size	\$/SF	Date of Sale	Year Built
SUBJECT	1912 Zenith Ave, Spirit Lake	N/A	48,020	N/A	N/A	1964
1	1000 Hillcrest Dr., Anita	\$750,000	16,669	\$45	March-12	1965
2	1325 N Lake Ave, Storm Lake	\$1,128,000	26,731	\$42	August-11	1970
3	700 NW 7th St, Pocahontas	\$1,150,000	25,054	\$46	August-12	1965
4	601 E Polk St, Washington	\$1,725,000	35,102	\$49	June-11	1977

Hawkeye Care provided information sheets about each property, but it did not adjust the sales for differences. (Exhibit 4) The information sheets for the properties indicate occupancy rates between 35.2% and 68.8%, compared to the subject's reported occupancy of 81%. (Exhibit E). We note that according to the information sheet provided by Hawkeye Care, the sale price of 700 NW 7th Street included \$150,000 of personal property. Adjusting for this element, the sale price for the real estate is \$1,000,000. Additionally, the sale price reported for 601 E Polk Street includes \$375,000 for "projected renovations." The sale price reported is \$1,350,000. Lastly, the information sheets indicate the comparable properties have bed counts ranging from 50 to 100, compared to the subject property, which has 120 beds. (Exhibit H). The indicated price-per-bed of the comparable properties ranges from roughly \$15,000 to \$19,000 using the sale prices reported by Hawkeye Care. Reducing the sale

prices by reported personal property or projected renovations results in a price-per-bed range of roughly \$15,000 to \$16,700.

Hawkeye Care concludes an opinion of \$46 per-square-foot for the subject property, or \$2,190,000, based on the unadjusted price-per-square-foot. We do not find the sales to be sufficiently similar and without adjustments for differences, we do not rely on this analysis.

The Dickinson County Board of Review submitted a written summary of its position. (Exhibit A). It asserts the lower occupancy rates of the comparable sales submitted by Hawkeye Care result in a lower price-per-bed. However, when considering sales with similar occupancy rates, the price-per-bed increases significantly. (Exhibit H). The Board of Review submitted seven sales that occurred in Iowa between 2009 and 2013. The following chart outlines the sales submitted.

Comparable	Address	Sale Price	Date of Sale	Occupancy Rate	Number of Beds	\$/Bed
1	701 Riverview, DM	\$1,504,410	March-09	78%	74	\$20,330
2	2000 Pasadena Dr, Dubuque	\$2,135,000	July-10	70%	102	\$20,931
3	114 Carter St SW, Mitchellville	\$1,569,000	May-11	94%	65	\$24,138
4	606 North 7th St, Knoxville	\$2,150,000	September-13	75%	75	\$28,667
5	530 S Linn Ave, New Hampton	\$4,000,000	February-12	87%	70	\$57,143
6	815 High Rd, Norwalk	\$7,109,496	September-11	67%	101	\$70,391
7	1611 27th St, DM	\$7,166,250	December-10	82%	78	\$91,875

There is no other information about these properties in the record. The size of the properties, year built, and quality/condition are unknown to this Board. The Board of Review considered the four sales with the most similar occupancy rate, Sales 1, 4, 5, and 7, as the best indicators of value. It concludes a value between \$5,148,600 and \$5,940,480, using the median and mean price-per-bed of these four sales. However, like Hawkeye Care, the Board of Review did not adjust its sales for differences. Without adjustments, we do not rely on the conclusions.

The Board of Review also submitted documentation in support of an income approach. (Exhibits B, C, D, F, G, and I). In its written summary, it concludes a value by the income approach of \$12,381,295, which it says, “This indicates the petitioner’s property also has a business value component in addition to the value of the real estate.” (Exhibit A). Because the income approach appears to include business value, we give it no consideration.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property’s fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm’s-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2). The property’s assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

The sales-comparison method is the preferred method for valuing property under Iowa law. *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 398 (Iowa 2009); *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 779 (Iowa 2009); *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). “[A]lternative methods to the comparable sales approach to valuation of property cannot be used when *adequate* evidence of comparable sales is available to *readily* establish market value by that method.” *Compiano*, 771 N.W.2d at 398 (emphasis added). “Thus, a witness must first establish that evidence of comparable sales was not available to establish market value under the comparable-sales approach before the other approaches to valuation become competent evidence in a tax assessment proceeding.” *Id.* (citing *Soifer*, 759 N.W.2d, at 782); *Carlson Co. v. Bd. of Review of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997).

Under Iowa Code section 441.49(4), a taxpayer may protest the application of an equalization order to the board of review and subsequently appeal to this Board. The board of review and PAAB may modify the application of the equalization order to the taxpayer’s assessment by adjusting the actual value of the subject property to one hundred percent of its actual, fair market value. *See* § 441.21(1)(b). However, any relief granted by the board of review or PAAB is limited to the amount of the equalization order as applied to the subject property. § 441.49(4). Here, Hawkeye Care appeals the application of the 2013 equalization order and asserts the subject property’s fair market value is \$2,145,000. PAAB may only modify the 2013 assessment upon a showing that the equalized assessment of Hawkeye Care’s property exceeds its actual, fair market value as of January 1, 2013. Even then, PAAB’s remedy is limited to the amount of the equalization order as applied to the subject property and PAAB may not reduce the value below the pre-equalized assessment of \$2,598,400.

Hawkeye Care also appeals its 2014 assessment on the basis that the property has suffered a downward change in value. Hawkeye Care must show the decrease in value by comparing the market value of the property as of January 1, 2014, to the actual value of the property as of January 1, 2013.

§ 441.37(1)(a)(2).

Hawkeye Care submitted a sales analysis using four properties it considered comparable. However, the record indicates at least eleven properties were available for analysis. The four properties considered by Hawkeye Care all have among the lowest occupancy rates at time of sale, which would likely negatively impact the sales price. Hawkeye Care neither discussed nor adjusted for this factor. In fact, Hawkeye Care did not adjust the comparable properties it submitted for any differences and relied solely on the sales price per-square-foot. We find the unadjusted sale properties used by Hawkeye Care do not accurately reflect the subject property's actual market value as of January 1, 2013 or January 1, 2014.

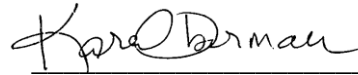
Hawkeye Care also submitted a cost analysis. First, we note that the cost approach to valuation is not the preferred method of valuation under Iowa law and should only be used when there are an insufficient number of comparable properties to complete the sales comparison approach to valuation. *Compiano*, 771 N.W.2d at 398. Here, the record suggests there are sufficient sales to value the subject by the sales comparison approach, and we hesitate to rely solely on a cost analysis.

Secondarily, there is insufficient explanation for this Board to rely on Hawkeye Care's cost analysis. Although Hawkeye Care's undepreciated improvement cost exceeds the improvement cost calculated by the Assessor, Hawkeye Care applied 72% depreciation to all of the improvements, regardless of differences in age. Conversely, the Assessor applied varying amounts of depreciation based on the age of the improvements. Hawkeye Care did not explain how it arrived at 72% depreciation for the property and we cannot conclude its cost approach accurately values the subject's fair market value.

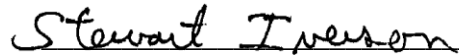
In conclusion, we find that Hawkeye Care has not provided sufficient evidence establishing the subject's actual fair market value as of January 1, 2013, or January 1, 2014. It has failed to meet its burden in these appeals.

THE APPEAL BOARD ORDERS the 2013 and 2014 assessments of the property located at 1912 Zenith Avenue, Spirit Lake, Iowa, is affirmed.

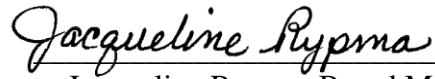
Dated this 4th day of September, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:
Jason Miller
Property Valuation Services
14400 Metcalf Avenue
Overland Park, KS 66223
APPELLANT

Lonnie Saunders
Assistant County Attorney
1802 Hill Avenue, Suite 2509
Spirit Lake, IA 51360
ATTORNEY FOR APPELLEE